IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1581 OF 1998

IN

ARBITRATION PETITION NO.48 OF 1997

AND

ARBITRATION PETITION NO.48 OF 1997

Gayaprasad J. Pande. ... Petitioner

vs.

M/s.Ramdular Baijanath. .... Respondents.

Mr.N.S.Jain i/b. S.K.Jain, for Petitioner.

Mr.K.R.Dhanuka, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 6th September,2005

P.C.:-

1. By consent of parties the Award dated 9.11.1994 passed in Arbitration Case no.L/46/94/95 is set aside.

2. By consent of parties Shri.M.U.Pandey, Advocate, having address at 5, Gopal Bhuvan, S.V.Road, Malad (West), Mumbai-400064,

is appointed as Arbitrator and the disputes between the parties are referred for decision to the learned Arbitrator. The learned Arbitrator shall decide the dispute in accordance with the provisions of the Indian Arbitration Act,1940.

3. By consent of parties, the petitioner Gayaprasad J. Pandey is permitted to withdraw the amount which is deposited by the Respondents M/s.Ramdular Baijnath in the Court together with the accruals, if any, subject to the condition that he furnishes an undertaking to this Court undertaking to re-deposit the amount if so directed by either the learned Arbitrator or by this Court and on such terms and conditions including the rate of interest as may be directed.

4. In case, the petitioner Gayaprasad J. Pande fails to withdraw the amount as directed above within a period of Eight weeks from today, the amount be continued in deposit subject to the directions that may be given by the learned Arbitrator in the Award.

The Arbitration Petition and the chamber summons are disposed of.

The office is directed to hand over the record and papers in sealed cover to the Petitioner Gayaprasad J. Pande for handing it over to the new arbitrator. It goes without saying that as the Award pursuant to which the decree has been passed by this Court, is set aside today, the decree ceases to exist.